

John Holeton

2392 Barclay Ave - Shelby Twp. MI 48317 -Phone (586) 731-3314 - E-mail w4arjohnholeton@att.net

May 12, 2015

Chairman Kurt Heise
Criminal Justice Committee
124 North Capitol Ave.
P.O. Box 30014
Lansing MI 48909-7514

Reference: HJR N Bill to protect consumers against invasion of privacy by requiring the government to obtain a search warrant.

Chairman Heise and members of the Criminal Justice Committee,

I come before you in opposition to the bill before you. Although HJR N specifically addressing the issue of the government requiring a search warrant it does not address the issue of private persons or corporations collecting data or communications without the consumers consent in the private place of their home.

I have specifically asked My Representative Mr. Lucido, member of this committee, about which laws will protect us from the unwarranted collection or eavesdropping to collect data within our home from Non-Government Organizations, persons or corporations. I believe consumers must have this issue addressed in Bill HJR N or made aware of the current laws that will protect them.

It was my understanding Michigan Penal Code 750.539d would be the law to quote and Michigan Consumer Protection Act PA 331 of 1976 would also address the consumer's choice and legal rights to refuse to have a data collection type of device on or in their home without their permission.

I would like to submit for the record the letter dated April 14, 2015 Certified Mail No. 7013 2630 0000 2086 1263 addressed to Mr. Lucido which documents these issues and the DVD The Cumulative Effect of RFR, Radio Frequency Radiation - Cancer which presents the testimony of attorney Jimmy Gonzalez whom suffered from the effects of a data collection device, cell phone, and died from the cumulative effect - cancer. Representative Mr. Lucido surveyed this video at a meeting where I presided. I believe this information is critical to the protection of consumers, their privacy and their legal rights.

I would also like to purview some of the pertinent information from this letter for the committee. I ask you as Criminal Justice Committee to address the issues contained herein as lawful considerations for Bill HJR N and forward a written reply to me at your earliest convenience.

Sincerely



John A. Holeton



36TH DISTRICT
STATE CAPITOL
P.O. BOX 30014
LANSING, MI 48909-7514
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MICHIGAN HOUSE OF REPRESENTATIVES

PETER J. LUCIDO
STATE REPRESENTATIVE

May 7, 2015

John Holeyton
2392 Barclay Ave.
Shelby Township, MI 48317

Dear John,

Thank you for taking the time to contact my office by mail regarding smart meters on April 23rd, 2015. As you may be aware, the Michigan Court of Appeals rejected the Attorney General's request to block Consumers Energy's smart meters.

The Michigan Court of Appeals has ruled no violation of law by allowing the smart meter to be placed on a home. However, the Court did send to the Michigan Public Service Commission the issue on whether it was appropriate to charge the fee for opting-out of having a smart meter. The smart meter docket is No. 317434 and the opt-out tariff docket No. is 317456.

Alessandra, from my office, emailed your wife on 5/6/2015 regarding a PSC hearing date. PCS mentioned that there had not yet been a case number assigned and therefore not yet a scheduled date. I suggest that you periodically call PCS at 517-284-8100 to get updates.

Thank you for taking the time to reach out to my office. Please do not hesitate to contact my office if we may be of further assistance to you.

Regards

Representative Peter J. Lucido 36th District
Michigan House of Representative

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April 14, 2015

Peter J. Lucido

CERTIFIED MAIL RECEIPT NO.
7013 2630 0000 2086 1263

State Representative
36th District
State Capitol
P.O. Box 30014
Lansing MI 48909-7514

Reference: Your request that I respond in writing of February 12, 2015 referencing expert testimony regarding the health issues of AMI meters and the Michigan Court of Appeals Case 017053 decision of February 19, 2015.

Mr. Lucido, I appreciate your attendance at our Smart Meter meeting at the Shelby Twp. Senior Center of February 7TH 2015 and your commitment to address the issue of health effects regarding Radio Frequency Radiation of AMI meters known as Smart Meters by expert testimony. I must address the Michigan Court of Appeals case as it is quite relevant to the health issues I presented at our seminar.

As you saw by PowerPoint demonstration and video such as the testimony of attorney Jimmy Gonzalez whom died of cancer with (3) separate tumors, head, hand and abdomen, associated with his cellphone radiation in 2014. It is the cumulative effect exposure of Radio Frequency Radiation, RFR, from multiple unsolicited sources such as cell towers, gas, water and DTE's AMI electric meters or Smart Meters as they are popularly called that most concerns me and other consumers attending these meetings.

Attorney Jimmy Gonzalez acknowledges in that video had he read the tens of pages of miniscule sized printing of documentation and directions which came with his cell phone and found the warning to keep his cell phone approximately one inch away from his head, he might not have contracted cancer.

I believe He might be alive today had he heard of the investigation into cellphone radiation by the World Health Organization and read reports from the International Agency for Research on Cancer dealing with the subject of RFR such as the one which declared cellphones as a possible group 2B carcinogen in 2011. This report was shown to you at our February meeting. The Public is not being made aware of potential dangers of Radio Frequency Radiation.

I stood before you and approximately forty other residents and showed the video of my home in Shelby Twp. with no, and I say again "NO", Radio Frequency Radiation and moved on to video of other homes where I recorded at residents request to know the amount of RFR in their homes that might be posing a possible threat to their health and wellbeing such as;

- White Lake Twp. with cell tower, AMI meter, DECT phone, cable service router, wireless thermostat and baby monitor with RFR.

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- Berkley Apartments with 17 AMI meters in the basement radiating resident's spare bedroom, and cell tower radiation surrounding the courtyard outside the apartment of the resident and emitting RFR into residents apartment and complex.
- Oxford residence with a smart water meter with over 2000 micro watts per meter squared again radiating upstairs into residents bedroom exposing her to RFR while she sleeps.
- Rochester Hills Foxboro Subdivision resident whom AMI meters RFR which could not be accurately read because of the cell tower radiation emitted from the cell tower across the street on a fire station near Adams Road and Walton Blvd.
- Troy residence where I recorded 12 minutes of almost continuous RFR from (2) AMI meters which goes against the DTE, Bob Sitkauskas, reference in Shelby Twp. of AMI meters only emitting RFR a few minutes a month.

It has not only been months but now years of misrepresenting to consumers they have No Legal CHOICE but to accept an AMI meter that they personally believe through doctors and engineer documentation and personal observation such as yours at our meeting, that they must go to and through the MPSC whom are personally not experts.

The Fraud upon the people that the MPSC has primary jurisdiction and all of their issues of health and privacy must be addressed there, must be ended by our elected officials whom took an oath of office to represent and protect the people and the Constitution of Michigan.

The Michigan Court of Appeals' decision of February 19, 2015 has ruled that the Michigan Public Service Commission has no authority over DTE's decision to install or not to install AMI, Digital or Analog meters. This is a management decision and thus out of the MPSC jurisdiction. It is under this basis that I believe all legal responsibility and liability will follow this direct intentional act of DTE to force consumers to take an AMI meter or join the DTE corporate opt-out program as consumer's only choices; That DTE will be solely responsible to the consumer for consequences of possible damages regarding health issues and invasive loss of privacy issues.

It is documented there, even though DTE went to the MPSC for permission for cost and rate approval for the AMI opt-out program that did not give the PSC authority to tell DTE whether to install or not to install AMI, digital or analog meters to even those choosing to opt-out.

a. Consumers Power Co v Public Serv Comm, 460 Mich 148, 157-158; 596 NW2d 126 (1999)
(PSC lacked authority to order utilities to transport electricity produced and sold by other utilities to customers);

b. Union Carbide Corp v Public Serv Comm, 431 Mich 135, 148-150; 428 NW2d 322 (1988)(PSC lacked authority to forbid the operation of a facility)

I am asking you as my representative, what Michigan laws our Attorney General or Macomb County prosecutor will enforce to protect consumers such as myself against a

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corporation whom deliberately and intentionally is willing to put consumers at what they believe is in harm's way?

Consumers are not being informed of their legal rights and obligations under Michigan Law and are being threatened termination of service not from non-payment but from ignorance of their rights and obligations under the law. I respectfully request you provide me with clarity my legal rights under Michigan law that would provide me and fellow electrical consumers the same protections now given consumers from the tobacco industry, children from lead paint and construction, auto, shipyard and other industrial workers harm from asbestos.

Could you give me written documentation why these following laws of Michigan do not apply and why are Michigan Consumers standing alone in this fight against a corporation?

**A. Michigan Consumer protection Act PA 331 of 1976 Section 445.903 (1)(hh).
Sec. 3. (1) Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as follows:**

- 1. (n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.**
- Consumers have in the past have contracted with DTE for separate meters with a reduced rate for their air conditioning units to be controlled at high energy consumption times just as the AMI meter has peak time pricing and time of use rates.
- This is exactly what the 2005 Energy Act, "PUBLIC LAW 109-58-AUG.8,2005 119 STAT.963" specifically recommended – consumer choice.

According to the 2005 Energy Act Sec. 1252, Smart Metering, each electric utility SHALL OFFER each customer a Time based Rate schedule and (C) provide each customer requesting "Time Based Rates" a Smart Meter.

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) TIME-BASED METERING AND COMMUNICATIONS.—(A) Deadline.
Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer

119 STAT. 964

PUBLIC LAW 109-58—AUG. 8, 2005

classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

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Why is there not a new separate contract for an AMI meter explaining consumer legal rights and obligations under for service from DTE?

Why must consumers be under threat of service termination for wanting an educated informed choice of what product is best for themselves by saying no to a possible health threat such as smoking, lead poisoning, asbestos and in this case Radio Frequency Radiation that is documented to be a possible group 2B carcinogen by the World Health Organization with Cell Phones and AMI meters work similarly at the same frequencies?

International Agency for Research on Cancer



World Health
Organization

PRESS RELEASE
N° 208

31 May 2011

IARC CLASSIFIES RADIOFREQUENCY ELECTROMAGNETIC FIELDS AS POSSIBLY CARCINOGENIC TO HUMANS

Lyon, France, May 31, 2011 — The WHO/International Agency for Research on Cancer (IARC) has classified radiofrequency electromagnetic fields as possibly carcinogenic to humans (Group 2B), based on an increased risk for glioma, a malignant type of brain cancer¹, associated with wireless phone use.

The book by The World Health Organization 2002 - pages (4) and (5) of
ESTABLISHING A DIALOGUE ON RISKS FROM ELECTROMAGNETIC FIELDS

ESTABLISHING A DIALOGUE ON RISKS FROM ELECTROMAGNETIC FIELDS

in domestic applications such as warming up food in microwave ovens, and in many industrial applications such as plastic welding or metal heating. The levels of RF fields to which people are normally exposed in our living environment are much lower than those needed to produce significant heating.

BIOLOGICAL EFFECTS AND HEALTH EFFECTS

Biological effects are measurable responses of organisms or cells to a stimulus or to a change in the environment. Such responses, e.g., increased heart rate after drinking coffee or falling asleep in a stuffy room, are not necessarily harmful to health. Reacting to changes in the environment is a normal part of life. However, the body might not possess adequate compensation mechanisms to mitigate all environmental changes or stresses. Prolonged environmental exposure, even if minor, may constitute a health hazard if it results in stress. In humans, an adverse health effect results from a biological effect that causes detectable impairment in the health or well-being of exposed individuals.

FIGURE 2. A Electric fields do not penetrate the body significantly but they do build up a charge on its surface, while **B** exposure to magnetic fields causes circulating currents to flow in the body.

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ELECTROMAGNETIC FIELDS AND PUBLIC HEALTH: THE PRESENT EVIDENCE

Complying with exposure limits recommended in national and international guidelines helps to control risks from exposures to EMFs that may be harmful to human health. The present debate is centred on whether long-term, low level exposure below the exposure limits can cause adverse health effects or influence people's well being.

CONCLUSIONS FROM SCIENTIFIC RESEARCH

LOW-FREQUENCY FIELDS

Scientific knowledge about the health effects of EMFs is substantial and is based on a large number of epidemiological, animal and in-vitro studies. Many health outcomes ranging from reproductive defects to cardiovascular and neurodegenerative diseases have been examined, but the most consistent evidence to date concerns childhood leukemia. In 2001, an expert scientific working group of WHO's International Agency for Research on Cancer (IARC) reviewed studies related to the carcinogenicity of static and extremely low frequency (ELF) electric and magnetic fields. Using the standard IARC classification that weighs human, animal and laboratory evidence, ELF magnetic fields were classified as possibly carcinogenic to humans based on epidemiological studies of childhood leukemia. An example of a well-known agent classified in the same category is coffee, which may increase risk of kidney cancer, while at the same time be protective against bowel cancer. "Possibly carcinogenic to humans" is a classification used to denote an agent for which there is limited evidence of carcinogenicity in humans and less than sufficient evidence for carcinogenicity in experimental animals. Evidence for all other cancers in children and adults, as well as other types of exposures (i.e. static fields and ELF electric fields) was considered inadequate to classify either due to insufficient or inconsistent scientific information. While the classification of ELF

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Excerpt - Letter to Janet Newton
President The EMR Network
Paragraph (3) of page (2)

From
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
July 16, 2002 - OFFICE OF AIR AND RADIATION

Norbert Hankin
Center for Science and Risk Assessment
Radiation Protection Division

While there is general, although not unanimous, agreement that the database on low-level, long-term exposures is not sufficient to provide a basis for standards development, some contemporary guidelines state explicitly that their adverse-effect level is based on an increase in body temperature and do not claim that the exposure limits protect against both thermal and nonthermal effects. The FCC does not claim that their exposure guidelines provide protection for exposures to which the 4 W/kg SAR basis does not apply, i.e., exposures below the 4 W/kg threshold level that are chronic/prolonged and nonthermal. However, exposures that comply with the FCC's guidelines generally have been represented as "safe" by many of the RF system operators and service providers who must comply with them, even though there is uncertainty about possible risk from nonthermal, intermittent exposures that may continue for years.

The EPA says FCC guidelines do not apply to chronic/prolonged and Non-thermal exposure to Radio Frequency Radiation. There is nothing more chronic or prolonged than permanent cell towers and electric, gas or water meters mounted directly on or within a consumer's home.

You personally have seen the video testimony of Attorney Jimmy Gonzalez where he points to the three areas of cancerous tumors he received from cellphone radiation and passes away shortly after his heroic testimony in 2014. That was from intermittent usage of one device, a cellphone, not constant radiation from AMI electric meters, smart water and gas meters and cell towers.

I believe Consumers are not being offered a new contract or service agreement before an Utility Agent disconnects their service and installs a "new data collection device" called an AMI meter and they are told they have "No Choice" as this is an asset of DTE when there is no request by the consumer for a change in metering or service!

- 2. (m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.**

Consumers analog meters are not broken as consumer have paid their bills for months and even years (appropriately metering and billed) thus the analog meter does not need servicing and thus does not need to be replaced.

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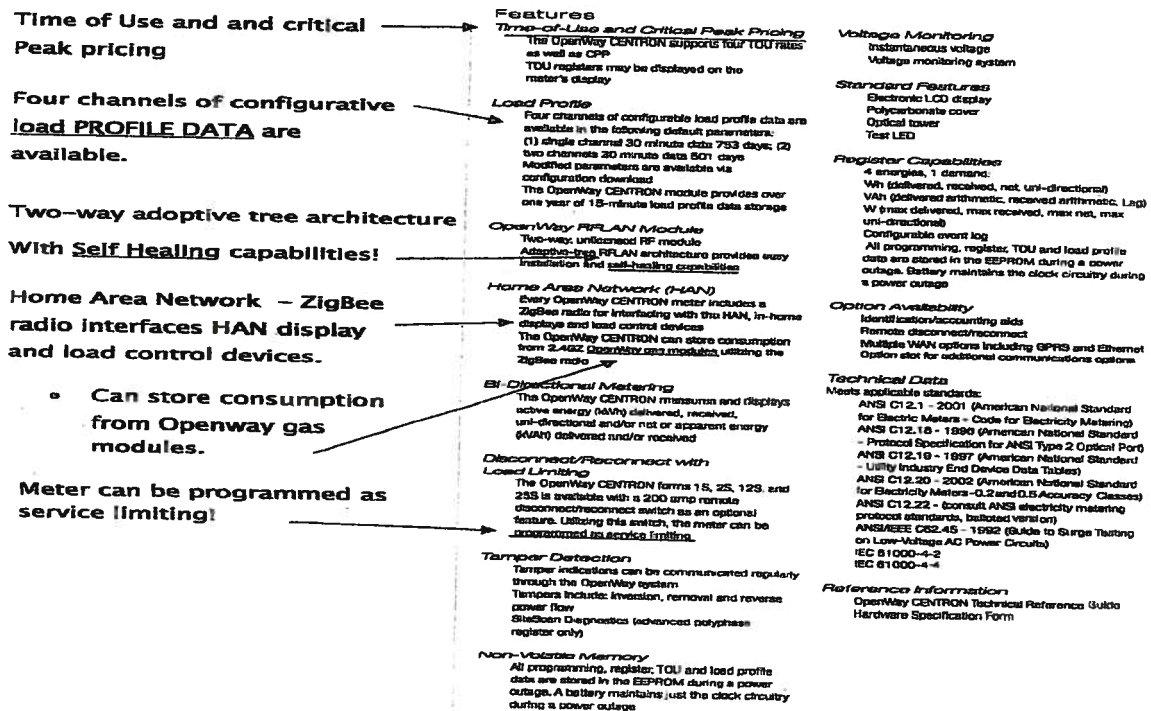
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3. (j) Representing that a part, replacement, or repair service is needed when it is not.

Mr. Lucido, the AMI meter has falsely been labeled as simply a metering device by DTE, as you witnessed Bob Sitkauskas, AMI manager for DTE, testify in the presentation video at Shelby Twp. MI. This has been done repeatedly by Bob Sitkauskas over and over again at many of the city and townships where resolutions were passed.

The AMI Itron OpenWay meter is specifically designed as a data collection device, with four channels, work with ZigBee gas module and connect with HAN, Home Area Network, for communicating with Smart Chipped Appliances. This is Page (2) of Itron OpenWay documentation.

OpenWay Document marked for clarity - Only



As noted in the book by the corporation Zpryme 2010 - Smart Grid Insights: Smart Appliances, the number of appliances connected to a Home Area Network like Itron OpenWay meters that transmit data to and from AMI meters could be as many as (10) RF devices: clothes dryers,

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clothes washers, refrigerators, freezers, dish washers, range tops, ovens, microwaves, coffeemakers and toaster ovens.

Michigan Penal Code MCL 750.539d specifically states that it is unlawful for a person to install a data collection device in a private place without the consent of persons expecting privacy there. DTE and Representative Bob Sitkauskas are Private Actors whom are willfully and intentionally exposing consumers to long term Non-thermal effects of AMI meters whom can collect data from other meters and RFR smart appliances in a Home Area Network.

THE MICHIGAN PENAL CODE (EXCERPT) Act 328 of 1931

750.539d Installation, placement, or use of device for observing, recording, transmitting, photographing or eavesdropping in private place.

Sec. 539d. (1) Except as otherwise provided in this section, a person shall not do either of the following:

(a) Install, place, or use in any private place, without the consent of the person or persons entitled to privacy in that place, any device for observing, recording, transmitting, photographing, or eavesdropping upon the sounds or events in that place.

(b) Distribute, disseminate, or transmit for access by any other person a recording, photograph, or visual image the person knows or has reason to know was obtained in violation of this section.

(2) This section does not prohibit security monitoring in a residence if conducted by or at the direction of the owner or principal occupant of that residence unless conducted for a lewd or lascivious purpose.

(3) A person who violates or attempts to violate this section is guilty of a crime as follows:

(a) For a violation or attempted violation of subsection (1)(a):

(i) Except as provided in subparagraph (ii), the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(ii) If the person was previously convicted of violating or attempting to violate this section, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(b) For a violation or attempted violation of subsection (1)(b), the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate subsection (1)(a) or (b).

History: Add. 1966, Act 319, Eff. Mar. 10, 1967;—Am. 2004, Act 156, Eff. Sept. 1, 2004.

Rep. Lucido, these are (4) unlawful Acts that any reasonable and prudent person would expect Michigan prosecuting attorneys or the Michigan Attorney General's Office to enforce to protect all consumers.

Will you ask the Michigan Attorney Bill Schuette to enforce these laws to give consumers an educated informed choice?

If they are not enforceable, WHY?

What laws are enforceable to protect consumers?

The Michigan Court of Appeals states on page (7) that the MPSC did not get many resolutions or complaints as they were not filed with the MPSC and thus were not constituted as a complaint in writing. How can this be?

That through our ignorance of the law in our lawman attempt to find laws that will protect us; protection from possible harm of Radio Frequency Radiation with Resolutions and Moratoriums.

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April 14, 2015

We the People simply erred in trusting local cities, townships and county representatives to actually do what they publically committed to, send in the more than (30) resolutions to the MPSC. I request you to investigate this critical misrepresentation by the MCOA of our trust and faith in our local leadership and elected officials such as yourself.

How many law abiding citizens will be hurt physically, financially and irreparably from acting on laws they believe are real and actionable. They should not be put in harm's way needlessly!

Will you ask the Michigan Attorney Bill Schuette to enforce these laws to give consumers an educated informed choice?

If they are not enforceable, WHY?

What laws are enforceable to protect consumers?

I am enclosing all of the reference material I posted here-in and further references on the Health issue. I will list them accordingly.

Your attendance at our seminar was greatly appreciated as now you as a Legislator have firsthand knowledge of the potential harm from the cumulative effect of Radio Frequency Radiation. I believe the legal issues of MPSC authority and jurisdiction especially regarding health must be addressed first before any other commitments.

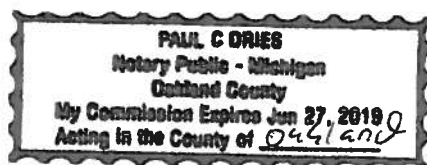
I believe that DTE's mandate is a RFR cancer that will multiply with the implementation of its AMI meter's HAN Smart Chipped appliances and connectivity with other RF devices. It will be only from documentation of our legal rights and true representation that we will not be enslaved by corporate mandates for profit.

Your assistance with these issues is greatly appreciated. I await your written response.

Sincerely



John A. Holeton



Paul C Dries
4/14/15

SEC. 1252. SMART METERING.

(a) In General- Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

`(14) TIME-BASED METERING AND COMMUNICATIONS- (A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

`(C) *Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.*

DTE at Shelby Twp.

NO MANDATE

June 7, 2011

NO OPT-OUT!

**MICHIGAN CONSUMER PROTECTION ACT
(EXCERPT)
Act 331 of 1976**

445.903 Unfair, unconscionable, or deceptive methods, acts, or practices in conduct of trade or commerce; rules; applicability of subsection (1)(hh).

Sec. 3.

(1) Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as follows:

(a) Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have.

(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

(j) Representing that a part, replacement, or repair service is needed when it is not.

(k) Representing to a party to whom goods or services are supplied that the goods or services are being supplied in response to a request made by or on behalf of the party, when they are not.

(m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.539d Installation, placement, or use of device for observing, recording, transmitting, photographing or eavesdropping in private place.

Sec. 539d. (1) Except as otherwise provided in this section, a person shall not do either of the following:

(a) Install, place, or use in any private place, without the consent of the person or persons entitled to privacy in that place, any device for observing, recording, transmitting, photographing, or eavesdropping upon the sounds or events in that place.

(b) Distribute, disseminate, or transmit for access by any other person a recording, photograph, or visual image the person knows or has reason to know was obtained in violation of this section.

(2) This section does not prohibit security monitoring in a residence if conducted by or at the direction of the owner or principal occupant of that residence unless conducted for a lewd or lascivious purpose.

(3) A person who violates or attempts to violate this section is guilty of a crime as follows:

(a) For a violation or attempted violation of subsection (1)(a):

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(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate subsection (1)(a) or (b).

History: Add. 1966, Act 319, Eff. Mar. 10, 1967;—Am. 2004, Act 156, Eff. Sept. 1, 2004.